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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

GREGORY P. BARNES, et al.,  
  
Plaintiffs,  
  
vs.  
  
THE HERSHEY COMPANY,  
  
  
Defendant.

Case No. 12-cv-01334-CRB

**STIPULATION AND ~~[PROPOSED]~~  
ORDER CONTINUING TRIAL**

Defendant The Hershey Company (“Hershey”) and Plaintiffs (collectively, the “Parties”),  
by and through their respective counsel, pursuant to Civil Local Rules 6-2, 7-12, and 40-1 of the  
Northern District of California, jointly request an order continuing trial, and aver as follows:

WHEREAS on June 10, 2015, the Court set a trial date of January 19, 2016 and a pretrial  
conference for January 7, 2016, ECF 275;

WHEREAS on September 25, 2015, Hershey filed two Motions for Partial Summary

Judgment seeking to prevent Plaintiffs from utilizing a pattern or practice method of proof and dismissal of all claims brought by Plaintiffs Gregory Barnes, David Bolle, and Jerry Chapman (collectively, the “Motions”), ECF 288 & 289;

WHEREAS, the Motions remain pending and a hearing is set for December 18, 2015, ECF 323;

WHEREAS, based on the current pre-trial schedule, the Parties must serve motions *in limine* the day of the hearing on the Motions and submit their other pre-trial filings less than two weeks later, which would require the Parties to draft pre-trial filings and prepare for trial without knowing the scope of trial;

WHEREAS, the Court is unavailable on January 7, 2015, the prior date set for the final pretrial conference;

WHEREAS, the Parties seek a continuance of trial in order to conserve the resources of the Court and the Parties, as well as to obtain a ruling on any motions in advance of trial and related pre-trial deadlines, and the Parties do not seek this continuance for the purpose of delay;

WHEREAS, all parties and their counsel are available for trial during the weeks of February 22, 2016 and February 29, 2016;

WHEREAS, the Parties agree that this Stipulation and the fact of entering into this Stipulation is without prejudice to any rights, position or arguments the Parties may make in this Action and that nothing in this Stipulation or the fact of entering into this Stipulation shall be construed as an admission by either Party or otherwise prejudice either Party’s position in any further litigation;

IT IS HEREBY STIPULATED pursuant to Local Rule 6-2 and 40-1 by and between the Parties hereto, through their respective attorneys of record, to the extension of certain deadlines as follows:

| Event                     | Current Deadline | Proposed Deadline |
|---------------------------|------------------|-------------------|
| Final Pretrial Conference | January 7, 2016  | February 11, 2016 |
| Trial to Commence         | January 19, 2016 | February 22, 2016 |

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 Pursuant to L.R. 5-1(i)(3) regarding signatures, I, Brandon J. Brigham, attest that  
3 concurrence in the filing of this document has been obtained from each of the other signatories. I  
4 declare under penalty of perjury under the laws of the United States of America that the foregoing  
5 is true and correct. Executed this 4th day of December, 2015.

6 /s/ Brandon J. Brigham

7 Brandon J. Brigham

8 Dated: December 4, 2015

MORGAN, LEWIS & BOCKIUS LLP

9  
10 By: /s/ Brandon J. Brigham

Brandon J. Brigham

11 Attorneys for Defendant

12 THE HERSHEY COMPANY

13 Dated: December 4, 2015

THE BRANDI LAW FIRM

14  
15 By: /s/ Brian J. Malloy

Brian J. Malloy

16 Attorneys for Plaintiffs

17  
18 PURSUANT TO STIPULATION, IT IS SO ORDERED.

19  
20 Dated: December 8, 2015

21 By: 

22 Honorable Charles R. Breyer

23 United States District Judge